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August 5, 2019

VIA EMAIL

Andrea Leshak
U.S. Environmental Protection Agency,
Region 2
Office of Regional Counsel
290 Broadway, 17th Floor
New York, NY 1007-1866
Leshak.andrea@epa.gov

Re: PROTECO Site in Peñuelas, Puerto Rico

Dear Ms. Leshak:

We have reviewed the Waste-In Information for the PROTECO Site provided by EPA by letter dated July 23, 2019 and email dated July 22, 2019. We have focused on the manifests from the facility with a mailing address of P.O. Box 106, San German, PR, and a generator ID number of PRD991291857. As we explained in our response to EPA's Request for Information and General Notice of Liability dated June 28, 2019 (the "Response"), this address and generator ID number belonged to Digital Equipment Corporation de Puerto Rico and not to Digital Equipment Corporation. We note that the manifests all include in Section K "Handling Codes for Wastes Listed Above" the designation of "S01" which designates storage. We further note that the Reports of Waste Received ("Informe de Desperdicios Recibidos") filed by Servicios Carbareon, Inc. ("SCI") also identify the waste handling method as storage "almacenados" for all of the waste shipments received from Digital Equipment Corporation de Puerto Rico. (The Servicios Carbareon monthly reports for December 1984, January 1985, March 1985, May 1985, June 1985, and September 1985.)

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota
Nevada New Jersey New York North Carolina Pennsylvania South Carolina Texas Washington



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Information provided by HP to EPA in its Response further supports the conclusion that these wastes were only stored temporarily at the SCI site and were taken to the AMLON facility in the Netherlands for reclamation. The enclosed correspondence from Digital Equipment Corporation de Puerto Rico to the Puerto Rico Environmental Quality Board ("EQB") dated May 23, 1984 notified EQB that Digital Equipment Corporation de Puerto Rico had retained Servicios Carbareon to provide services including "temporary storage" of its electroplating sludge. **Ex. 1.** The procedure enclosed with the letter to EQB states, "the packed material will be stored at SCI's Landfill in [sic] a temporary basis. ... The stored materials will be transported by Servicios Carbareon to Ponce's Port in an environmental sound manner. The material will be loaded to the ship which is supplied by AMLON Metal. ... The material will be shipped to Steinwag, Rotterdam Holland by AMLON Metals Inc. to process the material for reclamation purposes." The procedure submitted to EQB by Digital Equipment Corporation de Puerto Rico is from the same period as the manifests provided to HP by EPA, i.e. 1984/1985. The procedure focuses on the sludge removed from the Sabana Grande lagoons but would apply equally to the sludge at the production facility. The electroplating sludge contained various metals, including gold, silver, palladium, chromium and nickel and was of value to entities that conducted metal reclamation. A Purchase Contract with AMLON dated August 9, 1983 for hydroxide residues from the San German facility demonstrates that AMLON was purchasing the electroplating sludge from Digital Equipment Corporation de Puerto Rico prior to the excavation of sludge from Sabana Grande. **Ex. 2.** Other AMLON Purchase Contracts indicate that AMLON was purchasing other residues from the Digital Equipment Corporation de Puerto Rico San German facility. **Ex. 3.**

The electroplating sludge did not exhibit any hazardous waste characteristics and was the subject of a delisting petition submitted by Digital Equipment Corporation de Puerto Rico. The enclosed April 9, 1986 Federal Register Notice identifies the delisting petition of Digital Equipment Corporation de Puerto Rico, No. 315. **Ex. 4.** The enclosed EPA OSWER Directive dated July 20, 1987, identifies the Digital Equipment Corporation de Puerto Rico, San German facility as a facility with a pending delisting petition. **Ex. 5.** The enclosed Puerto Rico EQB Inspection Report of the Digital Equipment Corporation de Puerto Rico dated March 24, 1982 specifies that the delisting petition is for the F006 sludge. **Ex. 6.**

The EPA OSWER memo, EQB Inspection Report and Federal Register Notice further establish that it was Digital Equipment Corporation de Puerto Rico that generated the electroplating sludge and not Digital Equipment Corporation. As previously noted, the generator ID number listed on the manifests provided by EPA, PRD991291857, was issued to Digital Equipment Corporation de Puerto Rico as demonstrated by the enclosed Notification of Hazardous Waste Activity. **Ex. 7.** The address on the manifest provided by EPA, "P.O. Box 106, San German, PR" was the address of the Digital Equipment Corporation de Puerto Rico San



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German facility as demonstrated by the letterhead of the enclosed correspondence dated January 23, 1986. **Ex. 8**¹. The enclosed affidavit of Sam Landol, President of Digital Equipment Corporation de Puerto Rico, states in Paragraph 12, "Digital Corporation, the parent company, has never operated a manufacturing plant in Puerto Rico." Mr. Landol further states, in Paragraph 10 that Digital Equipment Corporation de Puerto Rico owned and operated all of its manufacturing plant facilities, assets and equipment in San German. **Ex. 9**. Based on the overwhelming evidence it is clear that Digital Equipment Corporation de Puerto Rico and not Digital Equipment Corporation was the generator of the waste shipped under the manifests EPA provided to HP.

Since there is no information indicating that the facility located at P.O. Box 106, San German, PR, with a generator ID number of PRD991291857, sent hazardous waste to the PROTECO site for disposal or treatment, the manifests in EPA's waste-in list asserted to be associated with HP do not give rise to CERCLA liability and should be removed. Further, the generator of these waste shipments was Digital Equipment Corporation de Puerto Rico, not Digital Equipment Corporation, and therefore, if there were to be liability under CERCLA for these shipments, since HP is not the successor to Digital Equipment Corporation de Puerto Rico, the liability would not be HP's. If EPA has information or documents that contradict the information set forth in this letter, please let us know.

Sincerely,

Karen Davis

KD:stj

Attachments: See Exhibit Table of Contents below

cc: Jenny McClister
Christopher Michael Dirscherl
Christopher M. Roe

¹ There are many other examples of correspondence by Digital Equipment Corporation de Puerto Rico San German facility using this letterhead which were provided to EPA as exhibits in HP's Response.

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Exhibits

1. Letter from Digital Equipment Corporation de Puerto Rico, dated May 23, 1984 to EQB, enclosing procedure for SCI's handling of Digital Equipment Corporation de Puerto Rico's electroplating sludge included in HP's Response as Exhibit 61.
2. AMLON Metals Inc. confirmation of purchase referencing Purchase Contract 197-P dated August 9, 1983 for the purchase of hydroxide residues from the Digital Equipment Corporation de Puerto Rico San German facility.
3. AMLON Purchase Contract 1127 dated October 1986 for various residues generated at the Digital Equipment Corporation de Puerto Rico San German facility.
4. Federal Register Notice dated April 9, 1986 identifying the delisting petition, number 315, of Digital Equipment Corporation de Puerto Rico, San German, PR, included in HP's Response as Exhibit 21.
5. EPA OSWER Directive dated July 20, 1987 that identifies Digital Equipment Corporation de Puerto Rico, San German facility as a facility with a pending delisting petition, included in HP's Response as Exhibit 23.
6. Puerto Rico EQB inspection report dated March 24, 1982 of the Digital Equipment Corporation de Puerto Rico San German facility that specifies the delisting petition is for the F006 sludge, included in HP's Response as Exhibit 22.
7. Notification of Hazardous Waste Activity submitted by Digital Equipment Corporation de Puerto Rico dated August 13, 1980 included in HP's Response as Exhibit 1.
8. Letter from Digital Equipment Corporation de Puerto Rico to EQB dated January 23, 1986 demonstrating the address of Digital Equipment Corporation de Puerto Rico was P.O. Box 106, San German, Puerto Rico, 00753, included in HP's Response as Exhibit 10.
9. Affidavit of Sam Landol, Pres. of Digital Equipment Corporation de Puerto Rico dated November 24, 1986, included in HP's Response as Exhibit 38.



de PUERTO RICO

May 23rd, 1984

Ing. Luis de la Cruz
Associate Member
Environmental Quality Board
P. O. Box 11488
Santurce, Puerto Rico 00910

Dear Ing. de la Cruz:

Enclosed herewith is the Procedure to Remove, Packing, Transporting, Temporary Storage and Shipping of our Industrial Wastes, which are stored in Sabana Grande's Municipal Landfill.

Resources Management Inc. (Servicios Carbareon) will be contracted to perform the removal, packing, transportation and temporary storage of the F006 electroplating sludge. They will accomplish all the Procedure's parts under Digital Equipment supervision. Then the material will be finally shipped from Ponce Port to Holland by AMLON Metal for recovery purposes.

Please review the Procedure and don't hesitate to call us if you have any question on any of its parts.

Hope to hear from you in a near future.

Sincerely yours,

Luis A. Ureta
Environmental Eng. Mgr.

cc: Srta. Lourdes Figueroa - EQB
Eng. Edert Ortiz - SCI
Dr. Jorge Fernández - SCI
Rafael Lama - DEC
Hiram Quiñones - DEC
Sam Landol - DEC
Jim Bishop - DEC
Steve Greene - DEC
Foster Knight - DEC
Tom Huppuch - DEC

PROCEDURE TO: REMOVE, PACKING, TRANSPORT, TEMPORARY STORAGE
AND SHIPPING OF THE DEC'S INDUSTRIAL WASTES

DIGITAL EQUIPMENT CORPORATION OF P.R.

P. O. BOX 106

SAN GERMAN, P. R. 00753

MAY 24, 1984

1. INTRODUCTION

Digital Equipment Corporation is an established Company under the laws of the Government of Puerto Rico. The plant is located at Highway 362, San German, Puerto Rico. Its business is the manufacturing of Printed Circuits boards & IC's modules. The Electroplating process is part of the system, which will generate contaminated rinses, concentrated alkaline & acid solutions and spent plating solutions with heavy metal content. Those wastes are treated in our secondary treatment plant, in order to neutralize and precipitate the heavy metals. This precipitated part (85% H₂O & 15% solids), after decanting process is listed as hazardous waste: F006 electroplating sludge, under Section 261.31 from the Code of Federal Regulations of May 19th, 1980.

The generated F006 electroplating sludge is transported to Sabana Grande's Landfill, and stored in three lagoons under Digital's management. These lagoons are authorized under the interim process for storage (surface impoundment) of hazardous wastes (E.P.A. I.D. #: PRD-0000706333).

The appropriate quantity of 2,500 cubic yards will be removed by Resource Management Inc. (Servicios Carbareon), eventually the material will be processed by AMLON Metal Inc. for metal reclamation after the completion of the following Procedure.

2. PROCEDURE

2.1 REMOVAL & PACKING

The material will be removed & packed directly and continuously in an environmental sound manner by Resources Management Inc.

The removal operation will be performed by mechanical means using a high velocity air mover equipment (See Attachment I for equipment data & specifications) and the packing container will be flexibin type (See Attachment II for technical data and specifications).

2.2 TRANSPORTATION (PHASE I) (FROM S. GRANDE TO SERVICIOS CARBAREON)

The removed & packed material will be transported from Sabana Grande's Landfill (Located at Road 368, Km 2.4, Sabana Grande, P.R.) to Servicios Carbareon Landfill in an environmental sound manner.

Servicios Carbareon will supply the trucks & platforms with an approximately capacity of 22 - 24 flexibin cap. (Servicios Carbaron's transporter E.P.A. I.D. #: PRD-091018622).

2.3 TEMPORARY STORAGE AT SCI

The packed material will be stored at SCI's Landfill in a temporary basis (Servicios Carbareon TSDF, EPA ID #: PRD-091018622.)

2.4 TRANSPORTATION (PHASE II): PEÑUELAS TO PONCE PORT

The stored material will be transported by Servicios Carbareon to Ponce's Port in an environmental sound manner. The material will be loaded to the ship which is supplied by AMLON Metal Inc.

Note: Prior to loading operation, the material will be weighted by Servicios Carbareon.

2.5 SHIPPING TO EUROPE

The material will be shipped to Steinwag, Rotterdam Holland by AMLON Metal Inc. to process the material for reclamation purposes.

2.6 ENVIRONMENTAL, HEALTH & SAFETY MANAGEMENT CONTROLS

Digital Equipment Corporation and Resource Management Inc. (Servicios Carbareon) will comply with the following EQB/EPA's Rules & Regulations in order to eliminate Environmental risks and non-compliance issues:

- 2.6.1 Manifest System & Routing
- 2.6.2 Labelling System
- 2.6.3 Pre-Transport Requirements
- 2.6.4 Record Keeping
- 2.6.5 Annual Reporting
- 2.6.6 Exception Reporting
- 2.6.7 Additional Reporting
- 2.6.8 Sub-Part E- Special Conditions (International Shipments)
- 2.6.9 Safety Equipment
- 2.6.10 Equipment Decontamination (if any)
- 2.6.11 Spill Control Equipment
- 2.6.12 D.O.T. Rules and OSHA & PROSHA Rules and Regulations

JAN 26 1986

TELEX: 649586 AMLON MTLN N

2.3

A METALS INC. L O N

40 RECTOR STREET • NEW YORK, N.Y. 10006 • (212) 742-1043

May 14, 1986

DIGITAL EQUIPMENT CORPORATION
P.O. Box 106, Highway 362
San German, Puerto Rico

ATTN: Ms. Marta Rivera

PURCHASE CONTRACT NO. 1081

We hereby confirm our purchase from you as follows:

QUANTITY: 1-2 containerloads approximately 40-80,000 lbs.

MATERIAL: Hydroxide Residues as per our contract 197-P dated August 9, 1983 typically Cu 5, Sb 0.13, Bi 0.07, Cr 4, Cl 0.3, As 0.02, Sn 1.5, Ag 46 GMT, Au 97 GMT, Pd 10 GMT, H2O 15/40, remainder Lime Percipitate

PRICE: You to pay 13 cents per pound of material

DELIVERY: Second half June 1986 after 30 day EPA notification period complete

SHIPMENT: F.A.S. San Juan, Puerto Rico loose in open top container(s) with freight costs from Port San Juan for our account.

PAYMENT: After shipment upon receipt of invoice

REMARKS: Supplier to line container with plastic liner and provide light and heavy weigh bills for settlement purposes.

After completion of this contract both parties to discuss long term arrangements.

Confirming between Mr. S. Greene and Mr. R.L. Koppel.

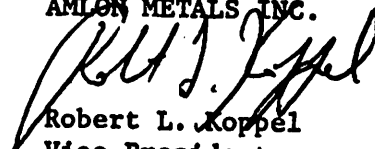
Usual Force Majuere conditions to apply.

Would you be so kind as to sign and return to us the enclosed duplicate copy of this contract signifying your agreement to the above terms.

We are pleased to have concluded this business transaction with you.

Very truly yours,

AMLON METALS INC.


Robert L. Koppel
Vice President

RLK:mjp
Encl.

cc- Mr. S. Greene, Maynard, MA
Corporate Environmental Specialist

HP-001987

**A
METALS INC.
L
O
N**

40 RECTOR STREET • NEW YORK, N.Y. 10006 • (212) 742-1043

October 1, 1986

DIGITAL EQUIPMENT CORP.
P.O. Box 106,
Highway 362
San German, Puerto Rico 00753

ATTN: Ms. S. CamposPURCHASE CONTRACT NO. 1127

Dear Ms. Campos:

We hereby confirm our purchase from you as follows:

QUANTITY: 1 Fourty Foot container loaded to capacity with 57 boxes

MATERIAL: 6 boxes - Au Fingers & Trim
3 boxes - Crushed PC Boards with and without Au Fingers
24 boxes - Router Dust bearing Au
7 boxes - Cu Foil
9 boxes - Cu Trim
1 box - Laminate
7 boxes - Sn/Pb Trim

PRICE: We to take on best evaluation

DELIVERY: F.A.S. San Juan, Puerto Rico

SHIPMENT: Prompt

PAYMENT: To be made after completion of our evaluation.

REMARKS: After completion of our analysis we will begin long term contract negotiations.
Usual Force Majeure conditions to apply.

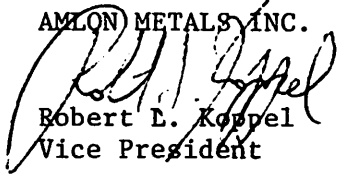
Confirming between Ms. S. Campos and Mr. R.L. Koppel

Would you be so kind as to sign and return to us the enclosed duplicate copy of this contract signifying your agreement to the above terms.

We are pleased to have concluded this business transaction with you.

Very truly yours,

AMLON METALS INC.


Robert L. Koppel
Vice President

RLK:mjh
Encl.
cc - Mr. S. Greene, Maynard, MA

HP-001988

Federal Register

Wednesday
April 9, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Dallas, TX, see
announcement on the inside cover of this issue.

Selected Subjects

Administrative Practice and Procedure

Interior Department

Animal Diseases

Animal and Plant Health Inspection Service

Animal Drugs

Food and Drug Administration

Aviation Safety

Federal Aviation Administration

Communications Common Carriers

Federal Communications Commission

Endangered and Threatened Species

Fish and Wildlife Service

Flood Insurance

Federal Emergency Management Agency

Food Stamps

Food and Nutrition Service

Freedom of Information

Federal Energy Regulatory Commission

Government Contracts

Employment Standards Administration

Labor Department

Wage and Hour Division

Government Procurement

Defense Department

CONTINUED INSIDE

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 28, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for 40 CFR Part 180 continues to read as follows:

Authority: Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2).

2. By adding a new § 180.428, to read as follows:

§ 180.428 Metsulfuron methyl; tolerances for residues.

(a) Tolerances are established for the combined residues of the herbicide metsulfuron methyl (methyl 2-[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl]amino]carbonyl]amino]sulfonyl]benzoate) and its metabolite methyl 2-[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl]amino]carbonyl]amino]sulfonyl]-4-hydroxybenzoate in or on the following raw material agricultural commodities:

Commodities	Parts per million
Barley, grain.....	0.05
Barley, green forage.....	5.0
Barley, hay.....	20.0
Barley, straw.....	0.1
Wheat, grain.....	0.05
Wheat, green forage.....	5.0
Wheat, hay.....	20.0
Wheat, straw.....	0.1

(b) Tolerances are established for residues of metsulfuron methyl (methyl-2-[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl]amino]carbonyl]amino]sulfonyl]benzoate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat.....	0.1
Cattle, meat.....	0.1
Cattle, mby.....	0.1
Goats, fat.....	0.1
Goats, meat.....	0.1
Goats, mby.....	0.1
Hogs, fat.....	0.1
Hogs, meat.....	0.1
Hogs, mby.....	0.1
Horses, fat.....	0.1
Horses, meat.....	0.1
Horses, mby.....	0.1
Milk.....	0.05
Sheep, fat.....	0.1
Sheep, meat.....	0.1
Sheep, mby.....	0.1

[FR Doc. 86-7821 Filed 4-8-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-2998-4]

Hazardous Waste Management System, Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by 46 petitioners to exclude their wastes from the hazardous waste lists. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Our basis for denying these petitions is that all of these petitions are incomplete (i.e., the Agency does not have sufficient information to determine the hazardous or non-hazardous nature of the waste). The effect of this action is that all of this waste must continue to be handled as hazardous waste in accordance with 40 CFR Parts 262-266, and Parts 270, 271, and 124.

EFFECTIVE DATE: April 9, 1986.

ADDRESS: The public docket for these final petition denials is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for public viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Ms. Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:**I. Background**

On November 20, 1985, EPA proposed to deny 67 petitions to exclude certain wastes from the hazardous waste lists (see 50 FR 47763-47765). These petitions were submitted by the companies pursuant to 40 CFR 260.20 and 260.22.

Throughout the course of the Agency's review of a petition, additional or supplemental information, other than that included in the initial submission, is

normally required to enable the Agency to conduct a complete and informed evaluation of the petition. The acquisition and analysis of this additional information is necessary before a tentative determination (i.e., a proposal to exclude or deny a petition) can be made for the petitioned wastes. Most of this information was requested because of the Hazardous and Solid Waste Amendments of 1984 (HSWA) (i.e., the Agency now must consider all factors, including additional constituents, if there is a reasonable basis to believe that these factors could cause the waste to be hazardous).

In all of these cases, the Agency has made a number of requests for information from these facilities. The Agency made at least two written requests for information indicating the specific information the petitioner was to supply in order for the Agency to consider the petition complete. In addition, the Agency published a notice in the *Federal Register* of its intent to collect this information (see 49 FR 4802-4803, February 8, 1984). The proposed denial notice, published on November 20, 1985, provided yet another notification of the information required. The 30-day comment period for that notice provided another opportunity for additional information to be submitted to the Agency.

In most cases, the Agency has not heard from these petitioners in over a year; in many cases, it has been almost two years. In a few instances, the Agency has held discussions with petitioners, again reviewing the information that must be submitted. In a few cases, some information has been received from petitioners. This information, however, was insufficient for the Agency to make a tentative decision. Waiting for this information has resulted in delays that have disrupted the continuity of the petition review process, and has created a backlog of petitions awaiting review. The Agency believes that we have given these petitioners an adequate period of time to provide this information. The Agency, therefore, is making final the denials of 46 petitions, as incomplete, since the additional information requested has not been provided within a reasonable period of time.

II. Petition Denials**A. Proposed Denials**

EPA proposed to deny 67 petitions requesting an exclusion for certain wastes. The additional information needed had not been provided within a reasonable period of time (i.e., one year

or more). The petitions were not complete and, consequently, the Agency could not determine whether the wastes are hazardous. (See 50 FR 47763-47765, November 20, 1985, for a more detailed explanation of why EPA proposed to deny these petitions.)

Neither comments nor additional information were provided for 45 of the petitions. We, therefore, are making final our decision to deny these 45 petitions.

Petition No.	Petitioner's name
0142.....	General Electric Company, East Columbia, MD.
0198.....	Amoco Oil Company, Whiting, OH.
0227.....	Plateau, Incorporated, Roosevelt, UT.
0234.....	Randal Texttron, Cincinnati, OH.
0260.....	Heekin Can/Diamond International Corporation, Cincinnati, OH.
0268.....	Tri-City Platers, Inc., Walton, IN.
0295.....	Platt Saco Lowell Corporation, Easley, SC.
0301.....	AC Spark Plug, Flint, MI.
0317.....	Lindau Chemical, Inc., Columbia, SC.
0318.....	Sperry Univac, Bristol, TN.
0329.....	Mobay Chemical Corporation, New Martinsville, WV.
0342.....	Arco Petroleum Products Co., Houston, TX.
0349.....	Hess Oil Virgin Island Corporation, St. Croix, VI.
0350.....	General Motors Corporation, McCook, IL.
0355.....	Exxon Company USA, Billings, MT.
0363.....	Raybestos Manhattan, North Charleston, SC.
0370.....	General Motors Corporation, Warren, OH.
0382.....	Sun Refining and Marketing Company, Toledo, OH.
0383.....	Koch Refining Company, Corpus Christi, TX.
0385.....	Ashland Petroleum Company, Canton, OH.
0388.....	Chevrolet Flint Manufacturing Complex, Flint, MI.
0397.....	Beech Aircraft Corporation, Boulder, CO.
0403.....	General Electric Protective Devices, Inc., Humacao, PR.
0407.....	Navajo Refining Company, Artesia, NM.
0412.....	Chem-Clear, Incorporated, Chicago, IL.
0417.....	Dresser Industries, Incorporated, Defiance, OH. ¹
0418.....	Franklin Electric, Jacksonville, AR.
0433.....	Cleaners Hanger Company, Jacksonville, FL.
0436.....	La Valley Industrial Plastics, Inc., Vancouver, WA.
0441.....	Murphy Oil Corporation, Superior, WI.
0447.....	Conoco Incorporated, Commerce City, CO.
0448.....	Universal Nolin, Conway, AR.
0452.....	Martin Electronics, Incorporated, Perry, FL.
0466.....	Brunswick Corporation, Stillwater, OK.
0480.....	Eaton Corporation, Athens, AL.
0481.....	Husky Oil Company, Cheyenne, WY.
0483.....	Perfection Plating Company, Elk Grove Village, IL.
0484.....	General Motors Corporation, Detroit, MI.
0487.....	Husky Oil Company, Cody, WY.
0493.....	American Petroleum Company of Texas, Port Arthur, TX.
0525.....	Teletype Corporation, Little Rock, AR.
0530.....	La Gloria Oil and Gas Company, Tyler, TX.
0533.....	Stanley Tools, Fowlerville, MI.

Petition No.	Petitioner's name
0546.....	Kawneer Company Inc., Springdale, AR.
0551.....	Texas Instruments Incorporated, Houston, TX.

¹In the November 20, 1985 proposal, petition # 0417 was referred to as SK Hand Tool Corporation. During the comment period, in a letter dated December 16, 1985, the Agency was notified that the waste subject to petition # 0417 was filed by Dresser Industries on behalf of their SK Hand Tool Division. The SK Division has since been sold; however, the subject waste remains with Dresser Industries. Petition # 0417 is, therefore, now Dresser Industries, Incorporated.

For 21 other petitions, either additional information was provided, comments on the proposal were received, or the petition was withdrawn during the comment period. In one case, the Agency is giving the petitioner additional time to submit the information required to ensure that adequate notice was provided to the petitioner.

The remainder of this section will discuss the comments (both general and specific) received, and the Agency's response to these comments.

B. Agency's Response to Public Comments

1. Comments on Specific Petitions

One petitioner stated that it had recently hired a contractor to do sampling and analyses, and needed more time for this information to be prepared by the contractor. The Agency, although appreciating the efforts being taken to obtain the additional information, believes that sufficient time has been provided for this petitioner to have obtained and submitted the needed additional information prior to the close of the comment period on December 20, 1985. In particular, this petitioner was first notified in January 1984 of the additional information that was needed in order for their petition to be considered complete. Subsequent requests were also made. The Agency, therefore, is denying today the petition submitted by the following facility:

Petition No.	Petitioner's name
0426.....	Diamond Shamrock Refining and Marketing Co., Three Rivers Refinery, Three Rivers, TX.

The Agency, however, invites this facility to submit a new petition, at some future date, that would include the additional information. When the additional information is received, the Agency will review the petition and make a tentative decision to grant or deny the petition.

Two commenters, representing 4 petitions, also asked for more time as well as raising several other issues that the Agency is still evaluating. These petitions are not among those being denied today, but rather will be addressed in a later **Federal Register** notice. These four petitions are:

Petition No.	Petitioner's name
0261.....	Texaco Co. USA, Port Neches, TX.
0453.....	Texaco USA, El Paso, TX.
0456.....	Standard Oil Company, Lima, OH.
0469.....	Standard Oil Company, Oregon, OH.

Three commenters, representing four petitions, provided the additional information needed to complete their petitions. The Agency is now reviewing these petitions. The Agency, therefore, is not denying the following petitions:

Petition No.	Petitioner's name
0339.....	Olin Corporation, Niagara Falls, NY.
0373.....	Merck & Co., Inc., Elkton, VA.
0377.....	Merck & Co., Inc., Elkton, VA.
0486.....	Union Oil Company of California, Nederland, TX.

Four commenters provided additional information, which the Agency is still evaluating. The following 4 petitions are, therefore, not among those being denied today:

Petition No.	Petitioner's name
0315.....	Digital Equipment Corporation de Puerto Rico, San German, PR.
0553.....	Dow Chemical Company, Indianapolis, IN.
0503.....	Yabucoa Sun Oil Company, Yabucoa, PR.
0552.....	Chevron U.S.A. Inc., Kenai, AK.

Six of the petitioners sent the Agency letters requesting that their petitions be

July 20, 1987

MEMORANDUM

SUBJECT: Enforcement of Applicable RCRA Regulations at Facilities
with Pending Delisting Petitions

FROM: Gene A. Lucero, Director
Office of Waste Programs Enforcement

Marcia E. Williams, Director
Office of Solid Waste

TO: Waste Management Division Directors
Regions I, IV, V, VII, & VIII

Air & Waste Management Division Director
Region II

Hazardous Waste Management Division Director
Region III, VI & X

Toxics & Waste Management Division Director
Region IX

The purpose of this memorandum is to restate Agency policy regarding the enforcement of applicable RCRA regulations at hazardous waste handlers that have pending delisting petitions. It has come to our attention that some Regions and States may be allowing non-compliance with some or all of the RCRA Subtitle C requirements pending a decision on active delisting petitions. We are reaffirming here that these wastes remain hazardous wastes and that they, and the units in which they are managed, are subject to all applicable RCRA regulations, including financial responsibility, groundwater monitoring and closure requirements, until the delisting is officially granted. In addition, facilities are still subject to the 1988 and 1989 statutory deadlines for permit issuance.

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Sections 260.20 and 260.22 establish a petition process which allows a facility to demonstrate that its waste, although captured by the broad listings of Section 261 Subpart D, does not meet any criteria under which the waste was listed, including the presence of additional constituents. Decisions on waste delisting have always been based on a chemical characterization of the waste itself and of the processes generating that waste, not on facility design, management practices or site conditions. Therefore, until a final decision is made to grant the petition, the waste is hazardous and the facility remains subject to enforcement of all applicable regulations (including compliance with Subpart F groundwater monitoring requirements). Facilities that are not in compliance with RCRA regulations are subject to enforcement action.¹

Concomitantly, facilities (excluding those with temporary or informal exclusion) that had pending delisting petitions on November 8, 1985, were subject to the Loss of Interim Status (LOIS) provision of the Hazardous and Solid Waste Amendments of 1984 (HSWA). Facilities that failed to validly certify compliance with Subparts F and H and submit a Part B application for an operating permit on or before November 8, 1985 were required to cease operating their hazardous waste land disposal units and submit a closure plan for those units by November 23, 1985. Facilities with pending delisting petitions that failed to retain interim status and continued to operate after November 8, 1985, and/or failed to submit the required closure plan are subject to enforcement actions under Section 3008 of RCRA.

¹ Facilities whose only waste was subject to a temporary or informal exclusion were not required to meet Part 265 standards during the effective time of the exclusion. However, all temporary and informal exclusions that had not previously been acted on expired by statute on 11/8/86 (Section 3001(f)(2)(8)). Facilities that had either a temporary or informal exclusion were in one of four categories on 11/8/86: (1) the final delisting was granted and that waste is no longer subject to regulation under RCRA; (2) the petition was denied when, after repeated requests from the Agency, the facility failed to provide additional information for the petition; these facilities had to be in compliance with Part 265 regulations immediately; (3) the completed petition was denied based on the merits of the petition (i.e., the waste was determined to be hazardous); these facilities had six months from the date of publication of the denial in the Federal Register to come into compliance with Part 265 standards; or (4) the exclusion expired by statute; these facilities petitions moved back into the standard delisting process and the facilities were immediately subject to all applicable RCRA requirements.

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Attachment 1 is a listing of all pending delisting petitions, broken down by Region. Please assure that these facilities are in full compliance with all applicable RCRA regulations. If you have any questions regarding the iteration of this policy, please call Steve Heare at 382-2207.

cc: Elaine Stanley
Bruce Weddle
RCRA Branch Chiefs, Regions I-X

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ATTACHMENT 1

REGION I

PETNUM	PETNAME	CITY	ST
0570	GENERAL ELECTRIC COMPANY	BRIDGEPORT	CT
0607	HONEYWELL, INC./SKINNER VALVE DIV.	NEW BRITAIN	CT
0685	LIGHT METALS COLORING COMPANY, INC.	SOUTHINGTON	CT

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REGION II

PETNUM	PETNAME	CITY	ST
0315	DIGITAL EQUIPMENT CORP DE PUERTO RICO	SAN GERMAN	PR
0435	UNION CARBIDE CORPORATION	TONAWANDA	NY
0503	YABUCOA SUN OIL COMPANY	YABUCOA	PR
0505B	KEYMARK CORPORATION	FONDA	NY
0547	BETHLEHEM STEEL CORP	SOUTH LACKAWANNA	NY
0602	BERLEX LABORATORIES, INC.	WAYNE	NJ
0603	BETHLEHEM STEEL CORPORATION/LACKAWANNA PLANT	LACKAWANNA	NY
0658	UNION CARBIDE CARIBE, INC. (UCCI)	PENUELAS	PR
0667	CHEVRON U.S.A. INC. (DRAFT)	PERTH AMBOY	NJ
0676	BENDIX AEROSPACE/BENDIX FLUID POWER DIVISION	UTICA	NY
0687	STEPAN COMPANY	FIELDSBORO	NJ
0694	YABUCOA SUN OIL COMPANY (SAMPLING PLAN)	YABUCOA	PR
0697	EAGLE ELECTRIC MANUFACTURING COMPANY, INC.	LONG ISLAND CITY	NY

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REGION III

PETNUM	PETNAME	CITY	ST
0368	WEIRTON STEEL CORP.	WEIRTON	WV
0373	MERCK & CO., INC.	ELKTON	VA
0377	MERCK & COMPANY, INCORPORATED	ELKTON	VA
0440	UNION CARBIDE CORPORATION	SISTERSVILLE	WV
0528	KOPPERS COMPANY, INCORPORATED	FOLLANSBEE	WV
0598	HARSCO CORPORATION	YORK	PA
0613	ARMCO/BUTLER WORKS	BUTLER	PA
0617	BETHLEHEM STEEL CORP. STEELTON PLANT	STEELTON	PA
0639	SHARON STEEL	SHARON	PA
0650	KELLER EXTRUSIONS OF VIRGINIA	MILFORD	VA
0672	G.R.O.W.S., INC.	MORRISVILLE	PA
0673	ALLIANCE OF TEXTILE CARE ASSOC.	WASHINGTON	DC
0679	UNION CARBIDE CORPORATION/HOLZ IMPOUNDMENT	SOUTH CHARLESTON	WV
0681	BETHLEHEM STEEL CORPORATION	JOHNSTOWN	PA
0688	ROANOKE ELECTRIC STEEL CORPORATION	ROANOKE	VA
0691A	STOREYS TRANSPRINTS, INC.	HARRISONBURG	VA
0691B	STOREYS TRANSPRINTS, INC.	COLONIAL HEIGHTS	VA
0693	WHELLING-PITTSBURGH STEEL CORPORATION	WHEELING	WV

Retyped from the original

REGION IV

PETNUM	PETNAME	CITY	ST
0316	GENERAL ELECTRIC COMPANY	HENDERSONVILLE	NC
0583	EMCO, INC.	EAST GADSDEN	AL
0587	GENERAL ELECTRIC COMPANY	FLORENCE	SC
0590	BOMMER INDUSTRIES, INC.	LANDRUM	SC
0622	O&S PLATING CO.	GLEASONT	TN
0635	NAVAL CONSTRUCTION	GULFPORT	MS
0636	ETC/MOLEX INCORP	ST. PETERSBURG	FL
0640	JOHN BOYLE & COMPANY, INC.	STATESVILLE	NC
0651	FAULTLESS HARDWARE DIVISION/AXIA ENTERPRISE	HOPKINSVILLE	KY
0657A	UNIVERSAL FASTENERS CENTERVILLE FACILITY	CENTERVILLE	TN
0657B	UNIVERSAL FASTENERS LAWRENCEBURG FACILITY	LAWRENCEBURG	KY
0662	GOODYEAR TIRE AND RUBBER COMPANY	RANDLEMAN	NC
0666	TENNESSEE EASTMAN COMPANY (TEC)	KINGSFORT	TN
0668	VIRGINIA CHEMICALS INCORPORATED	LEEDS	SC
0669	VIRGINIA CHEMICALS INCORPORATED	BUCKS	AL
0670	GENERAL ELECTRIC COMPANY	LOUISVILLE	KY
0675	REYNOLDS METALS COMPANY	SHEFFIELD	AL
0678	VAW OF AMERICA INCORPORATED	ST. AUGUSTINE	FL
0682	MASON CHAMBERLAIN INC/ARMY AMMUNITION PLANT	NSTL BASE	MS
0690	BFG INTERMEDIATES COMPANY INC.	CALVERT CITY	KY
0699	NORTH AMERICAN PHILIPS CONSUMER ELECT. CORP.	KNOXVILLE	TN
0700	ASHLAND PETROLEUM COMPANY	ASHLAND	KY

Retyped from the original

REGION V

PETNUM	PETNAME	CITY	ST
0237	ROCK ISLAND REFINING CORP.	INDIANAPOLIS	IN
0269	DELCO MORaine DIV/GMC	DAYTON	OH
0334	FISHER BODY-DIVISION OF GENERAL MOTORS C	FLINT	MI
0366	MIDWEST STEEL	PORTAGE	IN
0367	MIDWEST STEEL	PORTAGE	IN
0456	STANDARD OIL COMPANY	LIMA	OH
0469	STANDARD OIL COMPANY	OREGON	OH
0492	WASTE RESEARCH & RECLAMATION	EAU CLAIRE	WI
0506	UNITED STATES STEEL CORP. GARY WORKS	GARY	IN
0539	FEDERAL CARTRIDGE CORPORATION	ANOKA	MN
0540	CONTINENTAL STEEL CORP.	KOKOMO	IN
0549	S.K. WELLMAN CORPORATION	BEDFORD	OH
0556	ARVIN AUTOMOBILE	MOUNT VERNON	IN
0559A	ELI LILLY AND COMPANY CLINTON LABORATORIES	CLINTON	IN
0559B	ELI LILLY AND COMPANY CLINTON LABORATORIES	CLINTON	IN
0564A	ELI LILLY AND COMPANY	CLINTON	IN
0566	CONTINENTAL STEEL CORPORATION	KOKOMO	IN
0573	BRUSHWELLMAN INCORPORATED	ELMORE	OH
0575	WICKES MECHANICAL COMPONENTS DIVISION	MANCELONA	MI
0580	TAU LABORATORIES, INDIANA, INC.	KOKOMO	IN
0584	MCGRAW-EDISON COMPANY	ALBION	MI
0585	AMERICAN RECOVERY CO., INC.	EAST CHICAGO	IN
0591	CITY OF BELLEFONTAINE/D.A.B. INDUSTRIES	BELLEFONTAINE	OH
0621	PHILWAY PRODUCTS INCORPORATED	ASHLAND	OH
0627	RAYMARK INDUSTRIAL DIVISION	CRAWFORDSVILLE	IN
0629	RANCO	DELAWARE	OH
0630	NATIONAL METALWARES, INC.	LASALLE	IL
0633	QUANEX CORPORATION/MI SEAMLESS TUBE DIVISION	SOUTH LYON	MI
0643	VULCAN MATERIALS COMPANY	PORT EDWARDS	WI
0646	GENERAL MOTORS CORPORATION FLINT OPERATIONS	FLINT	MI
0652	ALLEGAN METAL FINISHING COMPANY	ALLEGAN	MI
0655	UNION CARBIDE-LINDE DIVISION	ASHTABULA	OH
0663	MARQUETTE ELECTRONICS, INC.	MILWAUKEE	WI
0671	NSM, INC.	OGLESBY	IL
0680	APOLLO PLATING, INC.	ROSEVILLE	MI
0683	JAY PLASTICS, INC.	MANSFIELD	OH
0695	STANDARD OIL (SAMPLING PLAN)	CLEVELAND	OH
0698	KAISER ALUMINUM & CHEMICAL CORPORATION	TOLEDO	OH

REGION VI

PETNUM	PETNAME	CITY	ST
0261	TEXACO USA	PORT NECHES	TX
0286	BELL HELICOPTER TEXTRON, INC.	FORT WORTH	TX
0344	LAKE CITY ARMY AMMUNITION PLANT	INDEPENDENCE	MO
0351	BLOOMFIELD REFINING COMPANY	BLOOMFIELD	NM
0396	EXXON COMPANY, BATON ROUGE REFINERY	BATON ROUGE	LA
0409	TEXAS EASTMAN COMPANY	LONGVIEW	TX
0453	TEXACO INCORPORATED	EL PASO	TX
0486	UNION OIL COMPANY OF CALIFORNIA	NEDERLAND	TX
0545	IBM CORPORATION	AUSTIN	TX
0563	KOPPERS CO. HOUSTON FACILITY	HOUSTON	TX
0571	GENERAL ELECTRIC COMPANY	SHREVEPORT	LA
0606	USEPA COMBUSTION RESEARCH FACILITY	JEFFERSON	AR
0625	UNION OIL COMPANY OF CALIFORNIA	NEDERLAND	TX
0648	LAKE CITY ARMY AMMUNITION PLANT	INDEPENDENCE	MO
0649	TEXAS EASTMAN COMPANY (DRAFT)	LONGVIEW	TX
0654	KAWNEER COMPANY, INC.	SPRINGDALE	AR
0660	HOLLOMAN AIR FORCE BASE	HOLLOMAN AFB	NM
0684	U.S. EPA RELEASES CONTROL BRANCH	MCDOWELL	MO
0692	CELANESE CHEMICAL COMPANY, INC/BAY CITY PLANT	BAY CITY	TX

Retyped from the original

REGION VII

PETNUM	PETNAME	CITY	ST
0532	JOHN DEERE COMPONENT WORKS	WATERLOO	IA
0543	VIKING PUMP DIVISION\HOUDAILLE INDUSTRIES	CEDAR FALLS	IA
0578	U.S. NAMEPLATE COMPANY INC.	MOUNT VERNON	IA
0616	PUEBLO CHEMICAL & SUPPLY COMPANY	GARDEN CITY	KS
0618B	MONROE AUTO EQUIPMENT/DIV. OF TENNECO AUTO	COZAD	NE
0624	SELECT PRODUCTS CO./DIV. OF HALLMARK CARDS	LEAVENWORTH	KS
0641	THERMEX ENERGY CORPORATION	HALLOWELL	KS
0656	CLAY EQUIPMENT CORPORATION	CEDAR FALLS	IA

Retyped from the original

REGION VIII

PETNUM	PETNAME
0542	JIM'S WATER SERVICE

CITY	ST
GILLETTE	WY

Retyped from the original

REGION IX

PETNUM	PETNAME	CITY	ST
0615	U.S. AIR FORCE - ENGINEERING & SERVICES	PACIFIC OCEAN	
0677	ACME FILL CORPORATION	MARTINEZ	CA

Retyped from the original

REGION X

PETNUM	PETNAME	CITY	ST
0393	BOEING COMMERCIAL AIRPLANE CO.	AUBURN	WA
0552	CHEVRON U.S.A. INC.	KENAI	AK
0588	BAYLINER MARINE CORPORATION	ARLINGTON	WA
0620	BOEING COMMERCIAL AIRPLANE COMPANY	AUBURN	WA

Retyped from the original



24 de marzo de 1982

MEMORANDO

A : Ing. Luis E. de la Cruz
Director
Area Contaminación de
Terrenos

P/C : Sr. Beato Alvarado
Director Interino
Negociado Desperdicios Peligrosos

: Ing. Julio Díaz JD
Jefe Interino Sección
Permisos e Ingeniería

DE : Nohemi Zerbi de Carlo NZE
Ingeniero Químico

ASUNTO : Digital Equipment Corp. de Puerto Rico
San Germán

El 16 de marzo del año en curso, se inspeccionó la compañía de epígrafe para cotejar la información que aparece en el "print-out" de E.P.A. de la Parte A del permiso que ellos sometieron.

La inspección resulto en una evaluación negativa de la facilidad y se le recomendará a E.P.A. a no proceder con la Parte B del permiso de ésta compañía.

Adjunto informe a ser enviado a E.P.A. sobre lo encontrado durante la inspección.

Con esto queda cerrado el expediente de permiso de Digital Equipment Corp. de Puerto Rico, hasta nueva ocasión.

INSPECTION REPORT
FOR PERMIT

A Part A Permit Revision Inspection was performed on March 16, 1982, to the Digital Equipment Corporation de Puerto Rico facility located in San Germán, Puerto Rico. Personnel of the Hazardous Waste Division of EQB met with Eng. Steven Greene, Corporate Engineer Contact, Eng. Luis López, and Eng. Luis Ureta, Environmental Engineer, during the visit.

Digital Equipment Corp. is dedicated to the manufacturing of printed circuit boards using the subtractive method with electrode and electroless plating and cyanide-free etching process.

The information that appears in the E.P.A. print-out of their Part A of the permit was reviewed and the following changes were noted.

- 1- The facilities "owner type" status is private.
- 2- The contact person has changed. Now Eng. Luis Ureta, Environmental Engineer is their contact person.
- 3- They have a state air permit with the following No. PFE 38002141-II 0
- 4- The company does not use drums to store hazardous waste normally. They have a storage area with a capacity to hold 95, 55 gallon drums in case of an emergency or spill.
- 5- They have two actual storage tanks with a combined maximum capacity of 9,000 gal.
- 6- They were storing, up to February of 1982, and unreported waste of "waste oils" which were labeled as toxic. They claim they have sold the waste, and will continue selling the waste, to a company to be recycled.
- 7- The hazardous waste they actually generated is all treated in the following manner.

	<u>Waste</u>	<u>Waste Code</u>	<u>Quantity</u>	<u>T01 Treatment</u>	<u>Final Process</u>
a-	Butyl	D001	2,860 gal/yr	-neutralization -polimerization -clarified -separated (F006 generated)	S02

	<u>Waste</u>	<u>Waste Code</u>	<u>Quantity</u>	<u>T01 Treatment</u>	<u>Final Process</u>
b-	Metal Rinses	D002	DATA	UNKNOWN	
c-	Water Rinses	D003	62,000 Tn/yr	-neutralized -clarified -separated -(F006 generated)	S02
d-	1-1-1-Trichloroethane	F001	6,000 Lb/yr	-pH adj -flocculation -clarified (F006 generated)	S02
e-	Acetone	F002	6,000 lb/yr	-scrubber -pH adj: -flocculation -clarifier (F006 generated)	S02
f-	Nitric Acid Tin lead chromic acid	F007	5,640 lb/yr	-varied	S02
g-	Sludge	F008	NO AVAILABLE	DATA	T01
h-	Butyl	F009	NO AVAILABLE	DATA	T01

- 8- The F006 waste water treatment sludge generated from the above processes is generated at a rate of 2,079 ton/yr. This waste is stored in storage tanks and then transported to a surface impoundment they own located at the municipal dump of Sabana Grande. This facility has an E.P.A. Id. number of its own. They have three (3) actual surface impoundments with a total capacity of 3/4 of a million gallons. None of the impoundments are lined and they do not have a ground water monitoring system nor a leachate collection system for this area.

On March 12, 1982, the company submitted to E.P.A. a delisting petition for their F006 waste disposed of at the Sabana Grande surface impoundments.

Page 3

It was recommended that the company submit to E.P.A. an updated version of their Part A. permit application in which they specified all the changes that have occurred.

RECOMMENDATION:

We believe that Digital equipment Corp. is not, at this moment a RCRA permit issuable facility due to the various treatment process they give to their hazardous waste which at present are not being regulated. Therefore we recommend that no further permit procedures be continued.



NOTIFICATION OF HAZARDOUS WASTE ACTIVITY

INSTRUCTIONS: If you received a prep label, affix it in the space at left. If any information on the label is incorrect, draw through it and supply the correct information in the appropriate section below. If the label is complete and correct, leave Items I, II, or below blank. If you did not receive a prep label, complete all items. "Installation" means a single site where hazardous waste is generated, treated, stored and/or disposed of, or a person's principal place of business. Please refer to the INSTRUCTIONS FOR FILING NOTIFICATION before completing this form. Information requested herein is required by Section 3010 of the Resource Conservation and Recovery Act.

PLEASE PLACE LABEL IN THIS SPACE

FOR OFFICIAL USE ONLY

COMMENTS

INSTALLATION'S EPA I.D. NUMBER										APPROVED										DATE RECEIVED (yr., mo., & day)									
F										T/A C										I									

I. NAME OF INSTALLATION

Digital Equipment Corporation

II. INSTALLATION MAILING ADDRESS

STREET OR P.O. BOX

3 PO Box 106

CITY OR TOWN

San German

ST.

ZIP CODE

PR 00753

III. LOCATION OF INSTALLATION

STREET OR ROUTE NUMBER

5 KM 1.0 Road 362

CITY OR TOWN

San German

ST.

ZIP CODE

PR 00753

IV. INSTALLATION CONTACT

NAME AND TITLE (last, first, & job title)

PHONE NO. (area code & no.)

2 Luis R Lopez Principal Fac Eng 809-892-3510

V. OWNERSHIP

A. NAME OF INSTALLATION'S LEGAL OWNER

8 Digital Equipment Corp de Puerto Rico

B. TYPE OF OWNERSHIP (enter the appropriate letter into box)

F = FEDERAL
M = NON-FEDERAL

M

VI. TYPE OF HAZARDOUS WASTE ACTIVITY (enter "X" in the appropriate box(es))

☒ A. GENERATION☐ B. TRANSPORTATION (complete item VII)☒ C. TREAT/STORE/DISPOSE☐ D. UNDERGROUND INJECTION

VII. MODE OF TRANSPORTATION (transporters only - enter "X" in the appropriate box(es))

☐ A. AIR☐ B. RAIL☐ C. HIGHWAY☐ D. WATER☐ E. OTHER (specify):

VIII. FIRST OR SUBSEQUENT NOTIFICATION

Mark "X" in the appropriate box to indicate whether this is your installation's first notification of hazardous waste activity or a subsequent notification. If this is not your first notification, enter your Installation's EPA I.D. Number in the space provided below. PRD 991291857

☒ A. FIRST NOTIFICATION☐ B. SUBSEQUENT NOTIFICATION (complete item C)

C. INSTALLATION'S EPA I.D. NO.

IX. DESCRIPTION OF HAZARDOUS WASTES

Please go to the reverse of this form and provide the requested information.

[illegible]

	1	2	3	4	5	6
F001	F002	F006	F007	F008	F009	
23 - - - 26	23 - - - 26	23 - - - 26	23 - - - 26	23 - - - 26	23 - - - 26	
7	8	9	10	11	12	
23 - - - 26	23 - - - 26	23 - - - 26	23 - - - 26	23 - - - 26	23 - - - 26	

13			14			15			16			17			18		
23	-	26	23	-	26	23	-	26	23	-	26	23	-	26	23	-	26
19			20			21			22			23			24		
23	-	26	23	-	26	23	-	26	23	-	26	23	-	26	23	-	26
25			26			27			28			29			30		
23	-	26	23	-	26	23	-	26	23	-	26	23	-	26	23	-	26

[illegible]

49				50				51				52				53				54			
23	-	20		23	-	16		23	-	26		23	-	26		23	-	26		23	-	26	

4. TOXIC
(D000)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Edward Levin

ENGINEERING MANAGER

8/13/80



de PUERTO RICO

January 23, 1986

HAND DELIVERED

Carlos Vazquez, Esq.
Director
Hazardous Waste Programs
Environmental Quality Board
Parque St at Pomarosa
Santurce, Puerto Rico

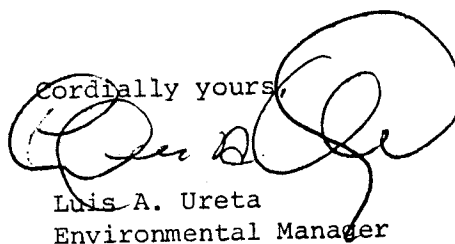
Re: Report on Accidental Spill

Dear Mr. Vazquez:

Attached please find our report on an accidental spillage of diesel which occurred at this plant when a one (1) inch pipeline broke down. This accident was first reported by telephone to Mr. Javier Salgado, of that Office.

Please let us know should you need additional information.

Cordially yours,



Luis A. Ureta
Environmental Manager

RECIBIDO
JUNTA DE
CALIDAD AMBIENTAL
DEC 31 1986
Area Control
Contaminación de
Terrenos

DIGITAL EQUIPMENT CORPORATION DE PUERTO RICO
P.O. BOX 106, SAN GERMAN, PUERTO RICO 00753
809 - 892-1948 TELEX 346-2038

HP-002011

TITLE: Report on Accidental Spill at Digital
Equipment Corporation Plant at San German
Puerto Rico.

General:

Digital Equipment Corporation, at San German Puerto Rico, maintains four (4) underground storage tanks for #2 fuel oil (diesel). This fuel is used to feed three steam generation units, four power generators, and a 300 gallon above ground storage tank to feed a pump used for fire sprinklers.

2. Description of the Accident:

On October 8th, 1986, at about 10:00 p.m., and during the second shift of operation, the operator in charge noticed diesel spread on the ground near the 300 gallon tank, from the pipeline going from the underground storage tank to the 300 gallon tank. The operator notified the supervisor in Facilities Engineering. Following field investigation, it was determined that the incident occurred when the one-inch pipeline going to the 300 gallon tank

broke down. Although there is continuous attendance of the area covering the process waste treatment plant, the broken pipeline was not immediately noticed until the diesel was spread over the ground on the area near the 300 gallon tank.

3. Action Taken:

The following action was taken on October 9, 1986, the day after the incident:

- a. Facilities Engineering called a private contractor to work on the cleanup. The cleanup process was started on the same day.
- b. The one-inch pipeline was replaced with a new one.
- c. There was diesel spread on top of the ground. It was possible to recover about 5 drums of diesel, for a total of about 250 gallons.
- d. Following removal of the diesel on the top of the ground, the area was cleaned by removing about 5 cubic yards of soil.
- e. On October 15, 1986, the cleanup works were completed. The soil was passed to 55-gallon drums. These drums are being held on site temporarily until a proper disposal method is determined.
- f. The affected area, about 250 sq. ft., was filled with topsoil and gravel.

4. Measures Taken to Prevent Further Occurrence:

The entire supply pipelines for the diesel were inspected and the deteriorated pipeline was replaced with a new one. Also, we anticipate changing the supply pipeline to above ground in the near future.

Effect on the Environment:

- a. On Surface Waters:
There was no effect on surface waters, as the spill was contained in a small area, and did not reach any surface waters. There are no surface bodies of water near the Digital plant.
- b. On Underground Waters:
The spilled diesel appears to have remained within the first two inches of soil. Therefore any diesel going below ground should have been absorbed in the 5 cubic yards of soil which was removed. We are performing further analyses to ensure that all affected soil is removed. Because of the rapid corrective action taken by Digital, it is unlikely that any underground waters were affected by this incident. (We believe that the groundwater table in the area is between 125 - 175 feet below ground.) Digital operates four deep wells at the facility. None of the wells were visibly affected. We have sent water samples out for testing, and can provide those results to you when available if you wish. There are no nearby public nor private water supplies, except for the Digital wells.
- c. On Air:
We do not believe there was any adverse effect on air resulting from the accidental spill, except for a small volatilization of the diesel, which was negligible.
- d. Hazardous Wastes:
The soil removed as part of the cleanup operation was impregnated with diesel. The only characteristic that would render the removed soil hazardous is Ignitability (D-002). We do not believe that the volume of fuel was enough to make the removed soil ignitable. We have sent soil samples to a qualified laboratory for analysis. We have not yet received the written report, but their oral report indicated that the soil was not ignitable.

I THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ABRAHAM ALVARADO MORALES et al)
)
Plaintiffs) CIVIL NO. 86-0464 (PG)
)
vs.)
)
DIGITAL EQUIPMENT CORPORATION,)
DIGITAL EQUIPMENT CORPORATION)
DE PUERTO RICO, INC.,)
ED SCHWARTZ, EILEEN JACOBS,)
GEN. GEORGE F. DORiot, MR. JOHN)
DOE, CLARK DOE, BENJAMIN DOE,)
TYRONE DOE, HAROLD DOE)
)
Defendants)

AMMENDED AFFIDAVIT

SAM LANDOL, being duly sworn, deposes and says:

1. I am of legal age, married, President of Digital Equipment Corporation of Puerto Rico, Inc. (Digital Puerto Rico), and a resident of Aguadilla, Puerto Rico.

2. I make this affidavit upon my personal knowledge in support of defendants' motion to dismiss and/or for summary judgment to strike the pleadings as scandalous, and for Rule 11 sanctions.

3. Digital Puerto Rico is a wholly-owned subsidiary of Digital Equipment Corporation, incorporated in Delaware and licensed to conduct business in Puerto Rico.

4. Digital Equipment Corporation (Digital Corporation) is organized and existing under the Laws of the Commonwealth of Massachusetts. It is not licensed to, nor does it, do business in Puerto Rico.

5. Digital Corporation and Digital Puerto Rico have a genuine parent-subsidary relationship. The two companies formulate and implement separately their own personnel policies. They have separate corporate structures, facilities, work forces, business records, bank accounts, tax returns, financial statements, budgets and corporate records.

6. Digital Puerto Rico is the beneficiary of a Grant of Industrial Tax Exemption issued by the Commonwealth of Puerto Rico, which covers its manufacturing operations in San German and Aguadilla, Puerto Rico, the facilities identified in the Second Amended complaint.

7. The sole employer of the named plaintiffs in this case was Digital Puerto Rico, which also employs nearly 2,500 individuals at the two manufacturing plants in San German and Aguadilla, Puerto Rico.

8. Digital Puerto Rico contracts in its own name, funds its own pension plan, administers and funds its own benefits program for its employees, and has its own budget.

9. All of the plaintiffs were employees of Digital Puerto Rico, performed their work in Puerto Rico, and were residents of Puerto Rico.

10. Digital Puerto Rico owns and operates all its manufacturing plant facilities, assets and equipment located at its factories in San German and Aguadilla, Puerto Rico.

11. All hiring and firing of Digital Puerto Rico's employees is done in Puerto Rico by personnel employed by Digital Puerto Rico.

12. Digital Puerto Rico has owned and operated its manufacturing plant located in San German since 1967 and its manufacturing plant located in Aguadilla since 1974. Digital Corporation, the parent company, has never operated a manufacturing plant in Puerto Rico. Digital Corporation has never been the employer of any of the named plaintiff in this case.

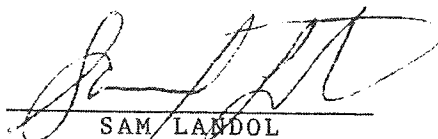
13. In my capacity as President of DIGITAL EQUIPMENT CORPORATION OF PUERTO RICO, INC. (DIGITAL PUERTO RICO), I was personally responsible for supervising the establishment and implementation of the Voluntary Incentive Resignation (VIR) Plan which granted certain financial benefits to all the named plaintiffs who chose to voluntarily resign from their employment.

It is a fact that although Digital Corporation (Digital Puerto Rico's parent company) ultimately approved the final version of such VIR plan, the specific details of the VIR plan were conceived and implemented in their entirety in Puerto Rico by the management and staff of DIGITAL PUERTO RICO working under my direct supervision. I have personal knowledge that the VIR plan adopted in Puerto Rico is unique to Puerto Rico and there is no comparable counterpart elsewhere.

14. The Personnel Policies of Digital Corporation and Digital de Puerto Rico are not identical.

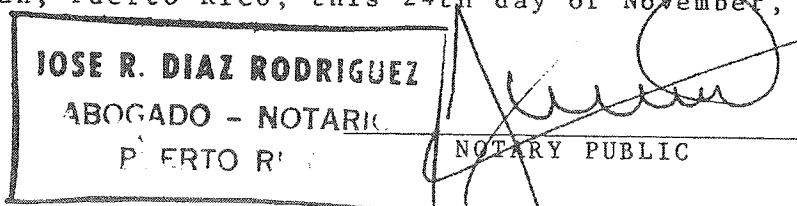
15. The persons in day to day control of Digital Puerto Rico's operations are all located in Puerto Rico.

In San German, Puerto Rico, this 24th day of November, 1986.


SAM LANDOL

AFFIDAVIT NO. 313

Sworn to and subscribed before me by Sam Landol, of the Personal circumstances described above, who I personally know in San German, Puerto Rico, this 24th day of November, 1986.


JOSE R. DIAZ RODRIGUEZ
ABOGADO - NOTARIO
PUERTO RICO
NOTARY PUBLIC